IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Martin WAUGH   Confirm No.:   4871

Serial No.:   10/010,627   Group No.:   3628

Filed: November 8, 2001   Examiner: Akiba K. Robinson BOYCE

For: SYSTEM AND METHOD FOR ADDING NETWORK TRAFFIC
                        DATA TO A DATABASE OF NETWORK TRAFFIC DATA

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA   22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

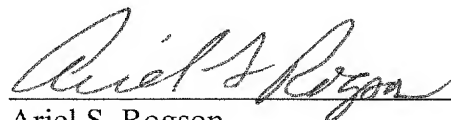This review is requested for the reasons states on the attached sheets.

I am the:

- ☐ applicant/inventor
- ☐ assignee of record of the entire interest
     See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed)
- ☒ attorney or agent of record
- ☐ attorney or agent acting under 37 CFR 1.34

Total of one forms are submitted.

Customer No. 20575   Respectfully submitted,

Ariel S Rogson

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ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF CONFERENCE
The combination of Hansen and Weinberg does not teach a content group

In rejecting claims 1-6, 8-28, and 30-52, the Examiner acknowledges that Hansen does not teach "identifying a content group viewed by the visitor... or storing the content group viewed by the visitor" (*see, e.g.*, Office Action dated February 14, 2007, page 4). The Examiner cites to Weinberg for this feature based on Weinberg's filters. The Examiner gives the examples of "content types such as, for example, images or plain text" (*see* Office Action dated February 14, 2007, pages 4 and 15-16). But Weinberg does not enable distinguishing between images of "pants" vs. "shirts". In fact, the Examiner acknowledges this by saying that "the content group 'image' can also span both of these groups since a user can pull up images of 'pants', 'shirts', 'ties', etc." (*see* Office Action dated February 14, page 16). The Examiner's statement shows that Weinberg teaches away from content groups as claimed.

Further, even if one would assume that all images on a web site were limited to a single content group, such as "pants", filtering based on images would still miss other visit information relating to that content group: for example, a web page based on the "pants" content group. The Examiner has not indicated how the combination of Hansen and Weinberg would identify visit information relating to the entire content group using Weinberg's filters. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 11-13.

The combination of Hansen and Weinberg does not teach extracting visit information

In rejecting claims 9, 31, and 48, the Examiner argues that Hansen teaches extracting visit information. But Hansen only recites "extracting selected information . . . to create . . . a filtered hit record" (*see* Hansen, column 12, lines 3-5). This is a general teaching of filtering, not a specific teaching of extracting visit information as claimed. According to M.P.E.P. § 2131.02, "[a] species will anticipate a claim to a genus. . . . A genus does not always anticipate a claim to a species within the genus." This is exactly analogous to the rejection in this case: the Examiner is arguing that a general teaching (extracting information) meets a specific claim features (extracting visit information). This is improper. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 13-14 and to the Response to the Office Action dated October 31, 2005, pages 11-12.

The Examiner's argument about cookies improving accuracy is irrelevant

In rejecting claims 11-14, 33-36, and 49-50, the Examiner argues that Hansen teaches about the misuse of cookies. There are two problems with this argument. First, the claims do not discuss the use of cookies at all, so to reject based on Hansen's discussion of cookies is to interpret the claims in a manner not consistent with their recitation. Second, Hansen admits that the use of cookies does not solve all problems associated with inaccurate counts (e.g., if the user has disabled the cookie mechanism: *see* Hansen, column 8, lines 22-24). Thus, Hansen teaches away from the very argument the Examiner proposes, and the Examiner's argument does not address the claimed invention. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 14-15 and to the Response to the Office Action dated October 31, 2005, pages 12-13.

The combination of Hansen and Weinberg does not teach regenerating visit information

In rejecting claims 13 and 35, the Examiner argues that Hansen teaches regenerating visit information. But Hansen only mentions that data "would have to be regenerated each time the Web site was altered". Hansen is directed toward a method that avoids regeneration. Thus, Hansen teaches away from regenerating visit information as claimed. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 15-16 and to the Response to the Office Action dated October 31, 2005, pages 13-14.

The combination of Hansen and Weinberg does not teach detecting open time slices

In rejecting claims 14 and 36, the Examiner argues that Hansen teaches detecting open time slices. The Examiner points to Hansen as teaching that records are requested chronologically, and that this enables detecting open time slices. The Applicant respectfully disagrees.

In requesting records chronologically, Hansen only teaches looking at a particular moment in time for each record. This shows that Hansen does not teach the possibility of time slices, which are

more than a single moment in time. Second, time slices involve import operations, a concept Hansen also does not teach. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 16-17 and to the Response to the Office Action dated October 31, 2005, pages 14-15.

The combination of Hansen and Weinberg does not teach purging information

In rejecting claims 20, 22, 42, 44, and 50, the Examiner argues that Hansen teaches giving a user access to usage information, and that this necessitates purging the information. This argument ignores the fact that the commonly-understood definition of purging means to get rid of something unwanted. If Hansen "purges" the information, then the information is no longer available to the user who requested it, so the Examiner's logic is confused.

The Examiner points to column 2, lines 661-67 of Hansen in support of the rejection. But Hansen says that content and usage information "can coexist on the screen" (*see* Hansen, column 2, line 66). Since the information "can coexist", the Examiner is incorrect to state that "the visit/hit record information must be purged in order for the user to access this type of usage information" (*see* Office Action dated February 14, 2007, page 7). This shows that Hansen teaches away from "purging" information as claimed. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 17-19 and to the Response to the Office Action dated October 31, 2005, pages 15-16.

The combination of Hansen and Weinberg does not teach parameter names

In rejecting claims 53, 55-56, and 58, the Examiner argues that Hansen teaches parameter names. The Examiner suggests that column 5, lines 49-56 of Hansen teaches parameter names. But in the cited portion, Hansen only describes display synchronization and downloading URLs. Nothing in Hansen teaches or suggests identifying a parameter in visit information.

The Examiner also cites to Figs. 1, 1A, 1B, and 1C of Hansen in support of this rejection (*see* Office Action dated February 14, 2007, page 18). But Figs. 1, 1B, and 1C of Hansen do not show any parameters. The Examiner points specifically to the portions of the web page in Fig. 1A that say "Get the context" and "Meet Nelson Roldan". But a person skilled in the art will recognize that this is part of the content of the web page, and not a parameter (which is understood to be part of the URL: *see, e.g.*, specification, page 8, lines 13-27; and page 11, line 28 through page 12, line 20). For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 19-20 and to the Response to the Office Action dated October 31, 2005, pages 16-17.

The combination of Hansen and Weinberg does not teach identifying an advertising campaign

In rejecting claims 8 and 30, the Examiner acknowledges that "neither Hansen et al nor Weinberg et al disclose . . . identifying an advertising campaign that brought a visit to a business" (*see*

Office Action dated February 14, 2007, pages 11-12). The Examiner cites to Dedrick for this feature. But while Dedrick is concerned with providing advertising information to users, and so might know which campaign sent a user to a business, that fact does not mean that the business knows this information. The only way the business would know this information in a combination of Hansen, Weinberg, and Dedrick would be if the business were also implementing the features of Dedrick. But in that case, the business would be providing advertisements to users. And unless the business were unrealistically egalitarian, it is hard to imagine the business providing advertising to users on behalf of its competitors. No, Dedrick is intended to be run by a party other than the business tracking the hit information in Hansen.

The difference between the claimed invention and Dedrick is the difference between being in a particular room with a door that leads to a common hall, and being in that common hall with numerous doors leading to individual rooms. Dedrick is akin to a user standing in the individual room before the door is opened, but the Examiner is attempting to argue that the same information can be learned by an observer looking into the hall after a person has entered the hall and closed the room from which they entered. The two situations are not analogous, and the teachings of Dedrick do not meet the features of the claims. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 20-21.

Foote is non-analogous art

The Examiner argues that Foote is analogous art to Hansen and Weinberg because Foote is concerned with "determining the times of subsequent access requests" (*see* Office Action dated February 14, 2007, page 13). The Applicant respectfully disagrees. Foote is concerned with configuring information about I/O cards, and would not be considered pertinent to the problem of analyzing hit information. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 21-23 and to the Response to the Office Action dated October 31, 2005, pages 18-20.

The combination of Hansen, Weinberg, and Foote does not teach a semaphore

In rejecting claims 15-17, 37-39, and 52, the Examiner indicates that Foote teaches a semaphore. While Foote does use the term "semaphore", it is clear from context that the semaphore in Foote is not the same as the semaphore in the claimed invention. The Foote semaphore includes "the maximum time duration the I/O module control [*sic*] access to the register space" (*see*, Foote, column 5, lines 63-65). In other words, the Foote semaphore is guaranteed to be released at some point. This fact shows that Foote teaches away from the semaphore recited in the claims, for which no such guarantee is provided.

In addition, the Examiner's reason in support of Foote as analogous art shows that Foote is using the semaphore in a manner inconsistent with the semaphore recited in the claims. Foote uses
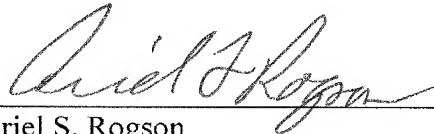
the semaphore to "determine[e] the times of subsequent access requests" (*see* Office Action dated February 14, 2007, page 13); the claimed semaphore is used to "block[] an operation on the time range until the semaphore is released" (*see* claims 16 and 38). This difference matters. For more detail, please refer to the Response to the Office Action dated September 22, 2006, pages 21-23 and to the Response to the Office Action dated October 31, 2005, pages 18-20.

The combination of Hansen, Weinberg, and Foote does not teach a snapshot

In rejecting claims 18, 40, and 51, the Examiner cites to the Snap Shot of Foote as meeting the snapshot of the claims. But the use of Foote's snapshot is limited to power-up configuration at the next power-up event. In contrast, the claims recite the use of the snapshot in analyzing the visit information. For more detail, please refer to the Response to the Office Action dated September 22, 2006, page 24 and to the Response to the Office Action dated October 31, 2005, page 20.

Respectfully submitted,

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